REMARKS

The Office Action dated February 27, 2008, has been received and carefully noted. The above amendments and the following remarks are submitted as a full and complete response thereto.

Claims 1-4 have not been amended and a new claim 5 has been added. Claim 5 contains all the limitations already disclosed in claim 1, with the inclusion of some specifying features. For example, in claim 5 it has been better clarified that each hollow nozzle moves vertically, between a first position in which it is immersed into a tank containing the micro-tablets or pellets, and a second position in which it releases the micro-tablets or pellets into a semi-capsule, moved under each hollow nozzle by the first carousel. Moreover, claim 5 also specifies that each seat of each hollow nozzle contains only a single micro-tablet or pellet. No new matter has been added, since the submitted amendments are all supported by the original specification.

Claims 1 - 5 are pending and respectfully submitted for consideration.

Rejections Under 35 U.S.C. § 103

Claims 1-4 are rejected under 35 USC § 103(a) as being unpatentable over the disclosure of Johnston et al. (U.S. Patent No. 6,357,490, hereinafter "Johnston"). The Applicant traverses the Examiner's rejection and respectfully submits that claims 1-4 recite subject matter that is neither disclosed nor suggested by Johnston.

The Examiner asserts, on point 2 of the Office Action, that Johnston discloses a capsule filling machine with a plurality of reciprocating doser means (78) mounted at regular intervals on a rotating carousel (62), and that it also discloses that the doser means are operative between a first position in which the doser picks up particulate

matter and a second position in which the doser transfers the particulate matter into capsules. See page 2 of the Office Action.

The Examiner also asserts that Johnston does not disclose a second carousel, but that for one of ordinary skill in the art at the time of the invention would have been obvious to add a second carousel under the first one disclosed by Johnston in order to provide more opportunity and space for doser and/or handling stations, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

The Applicant agrees with the fact that Johnston does not show any second carousel, but respectfully traverses the fact that would be obvious for one of ordinary skill in the art at the time of the invention adding a second carousel to the first one.

First of all, the first carousel (62) disclosed by Johnston handles the containers to be filled. So if a skilled man adds a second carousel under the first one, what it could be used for?

By contrast, in the present application the first carousel carries the capsules, while the second carousel carries the dosing means. The latter is placed above the former (and not under), since the micro-tablets or pellets are released from the dosing means or hollow nozzles to the capsule body, handled by the first carousel. This is not a mere duplication of working parts.

Second: under the first carousel of Johnston there is a cam disk. So, how could the skilled man realize the second carousel in order to accommodate it under the first one? Even if the skilled man succeeds in coupling the second carousel under the first one, the result would be different from the claimed machine.

Third: where is, in Johnston, the suggestion or the indication to add a second carousel? Why a skilled man should add a second carousel to the first one disclosed by Johnston?

Is there any suggestion or motivation in Johnston, to modify the machine in order to add a second carousel?

Is there any expectation of success in adding a second carousel to the first one? How does this second carousel function in connection with the first one?

Therefore, the three criteria to establish a prima facie case of obviousness are not satisfied. There is no rational reason given for having first and second carousels, each with different structure.

As regards point 4 of the Office Action, Applicant respectfully traverses the Examiner's assertion that powder is equivalent to micro-tablets or pallets.

Even if no specific dimension are provided, it is clear and obvious for one of ordinary skill in the art that powder has smaller dimension that a micro-tablet or a pallet. Moreover, on column 3 lines 33-36 of Johnston it is expressly said that one feature of the invention is to adapt the device also to very fine, low density powder, typically found in application relating to inhalable medicaments, therefore to medicaments having dimensions very smaller than a micro-tablet or pallet. Therefore Johnston cannot be used for micro-tablets or pallets.

Please consider also that the structure of dosing means treating with powder is different from the structure of dosing means treating with micro-tablets or pallets.

Indeed, in the case of powder, it is preferably to use a hopper from which powder will fall by gravity, as disclosed by Johnston, without suction means or with suction

means placed under the hopper to help the fall of the powder. If suction means are present, a filter should be positioned between the powder and the suction means, to prevent the complete suction of the powder (column 6 lines 19-20). On the contrary, micro-tablets or pallets have such a dimension that if the suction hole of the dosing means is dimensioned to be smaller than the transversal dimension of the medicament, no filter or other expedients have to be used to prevent the complete suction of the medicament. Also the suction force to be applied is different.

Moreover, how suction means can be applied to the dosing means (100, 104, 106) shown in figure 6 of Johnston?

The powder falls by gravity from the hopper (106) into the container through the dosing hole (102) of the dosing plate (104).

Please note that the vacuum device (79) disclosed by Johnston is meant to lift and temporary held the cap receptacle (column 8 lines 21-24).

As regards point 5 of the Office Action, please note another difference between the present invention and Johnston is that the claimed hollow nozzle of the present invention which picks up the medicament by suction, while the dosing means of Johnston contains the powder in a hopper from which, by gravity, the powder falls into each container. Johnston shows suction means (25, figure 4) placed on the base of a dosing hole (23), which assists powder in its fluent movement into the dosing hole (and not into the container) and which cooperates with gravity. There is no teaching or suggestion of a plurality of hollow nozzles as claimed.

First of all, the embodiment shown in figure 4 of Johnston differs for many aspects from the claimed invention, and therefore the skilled man could not reach the claimed solution starting from this embodiment.

Second, even if the skilled could try to combine the suction means (25) shown in figure 4 with the dosing means (106) of figure 6 of Johnston, how he could succeed in obtaining a good working machine? How he could obtain the claimed invention? If he made this combination, he should place the suction means on the base of the dosing hole (102) of the dosing plate (104), obtaining a device which is completely different from the claimed one.

As regards point 6 of the Office Action, please note that the doser means of Johnston does not disclose a plurality of seats on a lateral surface thereof for picking up and holding the micro-tablets or pellets.

Indeed, even if the doser means moves between a collecting position (and no pick up position) and a release position, it does not have any lateral seats for picking up and holding the medicament. The doser means presents a hole on the upper surface and a hole on the lower surface of the dosing plate (104), and not seats on lateral surfaces!

A hole realized on the upper surface of a dosing plate and a hole realized on the lower surface of a dosing plate are not equivalent to a plurality of seats realized on a lateral surface of a hollow nozzle as claimed!

Therefore, for what stated above, claim 1 is new and inventive, since Johnston, neither taken alone, nor in combination with the common general knowledge, shows all the disclosed features or can lead to the claimed solution.

New claim 5 is also new and inventive over Johnston.

Indeed, the above argumentation already discussed in connection with claim 1 can be applied also for claim 5, since claim 5 contains all the limitations disclosed in claim 1.

Moreover, claim 5 further specifies that the hollow nozzles move vertically. By contrast, the dosing means of Johnston moves only horizontally.

The hollow nozzles of the present invention pick up and hold the medicament by suction, while in Johnston the hopper never picks up the powder and it does not hold the powder by suction.

The hollow nozzle of the present invention is immersed in its first position into the tank containing the medicament in order to pick up by suction the medicament, while Johnston presents dosing means comprising a hopper which contains the powder and which is the tank. Therefore, the dosing means cannot be immersed into the tank but they contain the tank!

Finally, the hollow nozzle of the present invention presents a plurality of seats, each of them is meant to accommodate a single micro-tablet or pallet. This is impossible for Johnston since he deals with powder and since it does not show lateral seats, but only a dosing hole into which powder falls.

For what stated above, since Johnston, neither taken alone, nor in combination with the common general knowledge, shows all the features disclosed in claim 5 or can lead to the claimed solution, claim 5 is considered to be allowable.

As such, the Applicants submit that claim 1 and claim 5 are allowable over Johnston.

Accordingly, the Applicants respectfully request that the rejection under U.S.C. §103 be withdrawn.

Conclusion

The prior art made of record but not applied by the Examiner has been carefully considered but is submitted to be less relevant than the references previously discussed.

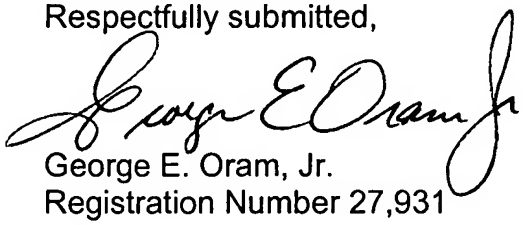
All matters having been addressed above and in view of the pending claims and remarks, Applicant respectfully requests the entry of this Amendment, the Examiners reconsideration of the application, and the timely allowance of the pending claims.

Applicants counsel remains ready to assist the Examiner in any way to facilitate and expedite the prosecution of this application.

Applicants respectfully submit that this application is in condition for allowance and such action is earnestly solicited. If the Examiner believes that anything further is desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below to schedule a personal or telephone interview to discuss any remaining issues.

In the event that this paper is not being timely filed, the Applicants respectfully petition for an appropriate extension of time. Any fees for such an extension, together with any additional fees that may be due with respect to this paper, may be charged to Counsel's Deposit Account Number 01-2300, referencing Docket Number 023349-00301.

Respectfully submitted,



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